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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,781	02/18/2004	Dc-Sheng Tsai	9286.32	2750
20792	7590	07/06/2007	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC PO BOX 37428 RALEIGH, NC 27627				COLE, ELIZABETH M
ART UNIT		PAPER NUMBER		
1771				
MAIL DATE		DELIVERY MODE		
07/06/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/780,781	TSAI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Elizabeth M. Cole	1771	

All participants (applicant, applicant's representative, PTO personnel):

(1) Elizabeth M. Cole.

(3) Mr. Hartz.

(2) Ms. Herman.

(4) \_\_\_\_\_.

Date of Interview: 18 June 2007.

Type: a) Telephonic b) Video Conference  
c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: pending.

Identification of prior art discussed: Erdos, Morman.

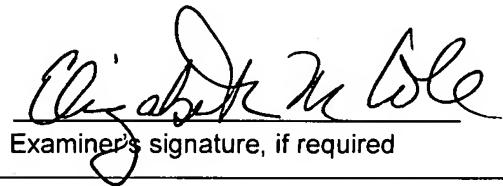
Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See continuation on sheet

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.



Elizabeth M. Cole  
Examiner's signature, if required

## Summary of Record of Interview Requirements

### **Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record**

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### **Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews**

#### **Paragraph (b)**

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### **37 CFR §1.2 Business to be transacted in writing.**

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

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- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
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- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  

(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

#### **Examiner to Check for Accuracy**

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With regard to Erdos, Applicant may amend the independent claim to recite that the process imparts elasticity to the nonwoven. This would overcome the Erdos reference because in Erdos the elasticity is due to the bonding of the nonwoven to an elastic layer. With regard to Morman, Applicant argued that the disclosure of Morman is not enabling to make a structure having the claimed properties, that no other process would result in the claimed properties, that the claimed process results in a distortion of point bonding in the nonwoven, and that the claimed process produces structural differences which cannot be put into words in any other way than by employing the claimed process language and that the process language in the claim is enough to structurally distinguish the claimed invention from Morman. The examiner indicated that the arguments regarding Morman would be carefully considered but that on its face Morman taught the claimed structure of a nonwoven web of thermally bonded non elastomeric fibers which had the claimed percent recovery at the claimed percent elongation. The examiner indicated that the claims do not recite any point bonds at this time so that arguments regarding the distortion of point bonds during the process would not be persuasive. The examiner indicated that arguing that a reference is not enabling is a complex issue that must be carefully considered but that Morman appeared to teach suitable fibers, suitable processing parameters, temperatures, apparatus, etc., which would enable one of skill to make/use the invention of Morman. The examiner indicated that the process limitations cannot patentably distinguish where the prior art product appears to be the same. Since Morman teaches the claimed elongation and recovery properties in paragraph 0057 it would be difficult to argue that the structure of Morman is different since the type of fibers/web as well as the claimed elongation and recovery properties are all disclosed in Morman. The examiner indicated that it is difficult to prove an argument that the only way that the claimed web can be obtained is by the particularly claimed process since it is difficult to prove a negative. Applicant reiterated their position that the process language imparts structure which cannot be otherwise defined to the claims and that there is no requirement that the structure imparted by the process be actually recited in the claims in order to distinguish the claimed invention from the prior art. The examiner disagreed with this assertion. Applicant requested a second in person interview at the end of the hour long phone interview so that the inventor can present a power point presentation to show that the process results in a different product and that there is no reason to put these limitations into the claims because the differences are shown in the specification. The examiner agreed to have another interview and one was tentatively scheduled for July 25.

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All participants (applicant, applicant's representative, PTO personnel):

(1) Elizabeth M. Cole.

(3) Mr. Hartz.

(2) Ms. Herman.

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Date of Interview: 6/27/07.

Type: a) Telephonic b) Video Conference  
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Exhibit shown or demonstration conducted: d) Yes e) No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 22-38, 34-42.

Identification of prior art discussed: Morman.

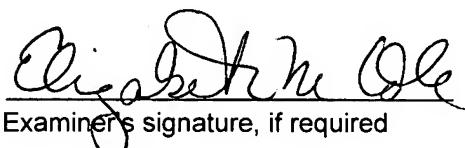
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Applicant argued that paragraph 57 of Morman is hypothetical and only included to show how to perform the relevant calculations on the material and that paragraph 58 of Morman limits what is shown in paragraph 57. The examiner indicated that this argument would be considered but it appeared on its face that Morman did not intend to limit the disclosure to what is stated in paragraph 58 since the values in paragraph 58 are minimum values, not maximum values. Applicant argued that in Morman paragraph 17 states that the extension of the reversibly necked material is substantially limited to extension to its prenecked dimensions unless the material is elastic and that extension too far beyond the pre necked conditions will result in material failure and further argued that they included four examples in table 5 which showed that the claimed material can be extended past the width of the original prenecked material and that this distinguished the claimed invention from the Morman product. The examiner indicated that the showing needed to be commensurate in scope with the claims and the materials used, i.e., what types of non-elastomeric fibers, the basis weight, etc., were not shown and that the showing had to be over the entire claimed range of processing temperatures, draw rate and strain rate. Applicant argued that the showing was commensurate since it showed a spunbonded, carded, SMS and SMMS laminate. The examiner stated that the showing did not seem commensurate in scope with the claims since it was not clear what specific materials were used, whether the results occurred over the entire claimed range of processing parameters set forth in the claims, etc., but agreed that the results would be carefully considered when submitted in a formal response. Applicant again stated that the claims were product by process claims and that it is not necessary to include the structural differences in the claim when there is a showing that the process differences result in a different product. The examiner agreed that this is true but noted that the showing has to be commensurate in scope with the claims. Agreement was not reached. Applicant will submit their arguments in writing and the arguments will be carefully considered. This interview was in lieu of the in-person interview tentatively scheduled during the previous phone interview of 6/18/07.